

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

CLEANUP AND ABATEMENT ORDER NO. 98-50

THE CITY OF SAN DIEGO (CITY)

DISCHARGES OF SEDIMENT TO AND FROM MUNICIPAL SEPARATE STORM SEWER
SYSTEM (MS4) TRIBUTARY TO CARMEL VALLEY CREEK
LOS PENASQUITOS LAGOON
SAN DIEGO COUNTY

The California Regional Water Quality Control Board, San Diego Region (hereinafter SDRWQCB) finds that:

1. **BASIS FOR THIS ORDER**

The City has discharged sediment from the municipal separate storm sewer system (MS4) that drains Arroyo Sorrento Road and El Camino Real to waters of the United States, specifically Carmel Valley Creek and Los Penasquitos Lagoon, Hydrologic Subarea No. 6.10 (HSA 6.10), in a manner that:

- (1) violates SDRWQCB Order No. 90-42, Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater and Urban Runoff from the County of San Diego and the Incorporated Cities of San Diego County and the Unified Port District (hereinafter SDRWQCB Order No. 90-42);
- (2) violates the *Water Quality Control Plan, San Diego Basin (9)* (hereinafter Basin Plan);
- (3) has caused and permitted a condition of pollution in HSA 6.10; and
- (4) if unabated, threatens to cause a condition of further pollution in HSA 6.10.

2. **VIOLATION OF SDRWQCB ORDER NO. 90-42**

The City has not adequately developed or implemented best management practices (BMPs) to control or reduce the discharge of sediment to and from the MS4 that drains Arroyo Sorrento Road and El Camino Real to the waters of the United States to the maximum extent practicable (MEP). The City maintains unpaved portions of Arroyo Sorrento Road without any structural BMPs to control erosion of the road surface. The City has installed a velocity-increasing structure on the MS4 that drains Arroyo Sorrento Road, which is a management practice designed to facilitate the transport of sediment discharges to waters of the United States. The City has failed to enforce their storm water ordinance for discharges of sediment to the MS4 from construction development activities within the drainage area.

3. **VIOLATION OF BASIN PLAN**

The City has discharged sediment from the MS4 that drains Arroyo Sorrento Road and El Camino Real in a manner that violates Basin Plan prohibition numbers (1), (5), (7), (8), and (14).

4. **CONDITION OF POLLUTION**

The City has discharged sediment from the MS4 that drains Arroyo Sorrento Road and El Camino Real in a manner that has resulted in the condition of pollution in the area of the mouth of Carmel Valley Creek and Los Penasquitos Lagoon. The sediment discharged has impaired the beneficial uses of these water bodies. Specifically, the portions of Carmel Valley Creek and Los Penasquitos Lagoon receiving the City's sediment discharges can not fully support the beneficial uses designated as warm freshwater habitat (WARM) and estuarine habitat (EST).

5. **NEED FOR IMMEDIATE ACTION**

Unless the newly deposited sediment in Carmel Valley Creek is removed prior to the next rainy season (beginning approximately October 15, 1998), it will probably be flushed into Los Penasquitos Lagoon during storm events and cause further pollution and concomitant impairment of the beneficial uses of the lagoon. Much of the **newly deposited sediment** remains in the upper two feet of an area included in an arc swept 60 degrees in both directions and 250 feet in radius from the MS4 that drains Arroyo Sorrento Road and El Camino Real. Much of this newly deposited sediment can be easily removed without disturbing significant riparian habitat.

6. **ADMINISTRATIVE COSTS INCURRED BY THE SDRWQCB**

The SDRWQCB has incurred actual costs in excess of four thousand dollars to investigate and oversee cleanup and abatement of the consequences of the City's uncontrolled discharge of sediment from the MS4 that drains Arroyo Sorrento Road and El Camino Real. The SDRWQCB will incur additional costs to oversee the City's cleanup and abatement pursuant to this Order. The SDRWQCB is entitled to, and will seek, reimbursement for all reasonable costs actually incurred by the SDRWQCB to oversee the cleanup and abatement of the consequences of the City's uncontrolled discharge of sediment from the MS4 that drains Arroyo Sorrento Road and El Camino Real.

7. **CEQA EXEMPTION**

This enforcement action is being taken for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15308, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, That pursuant to Section 13304 of the California Water Code, the City of San Diego (hereinafter referred to as the discharger) shall comply with the following:

1. The discharger shall do all of the following prior to October 15, 1998:

- a) remove **newly deposited sediment** from the area included in an arc swept 60 degrees in both directions from the centerline, and 250 feet in radius from the discharge point of the MS4 that drains Arroyo Sorrento Road and El Camino Real in a manner that does not disturb significant riparian vegetation;
 - b) remove sediment presently contained within the MS4 that drains Arroyo Sorrento Road and El Camino Real; and
 - c) implement interim, short-term BMPs to control and reduce sediment discharges from the MS4 that drains Arroyo Sorrento Road and El Camino Real to the MEP.
2. The discharger shall, prior to October 15, 1999, develop and implement a permanent, long-term strategy to control and reduce future sediment discharges from the MS4 that drains Arroyo Sorrento Road and El Camino Real to the MEP.
 3. The discharger shall submit status reports describing their actions pursuant to this Order no later than September 15, 1998 and every 90 days thereafter to the SDRWQCB.
 4. The discharger shall have a professional on site during all sediment excavation qualified to ensure that no significant riparian vegetation is disturbed as a result of their actions pursuant to this Order.
 5. All material (e.g., sediment, vegetation, trash, debris, etc.) removed pursuant to this Order shall be properly characterized and managed according to applicable laws and regulations.
 6. The discharger shall reimburse the SDRWQCB upon receipt of a billing statement for actual costs reasonably incurred by the SDRWQCB to administer this Order and oversee the discharger's cleanup and abatement.
 7. The discharger shall submit reports required under this Order, or other information required by the SDRWQCB, to:

California Regional Water Quality Control Board, San Diego Region
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124-1324
c/o Storm Water Unit

John H. Robertus
Executive Officer

Date: August 5, 1998